

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

KIM JOE GRAVES,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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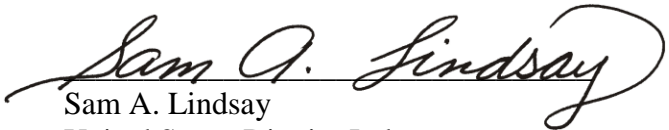
Civil Action No. **3:16-CV-3288-L**

ORDER

This habeas case was referred to Magistrate Judge Paul D. Stickney, who entered Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) on November 29, 2016, recommending that Petitioner’s habeas petition be construed as successive and transferred to the United States Court of Appeals for the Fifth Circuit. *See* 28 U.S.C. § 2244(b)(3). Petitioner has not filed an objection to the Report.

When a petition is deemed successive, the district court lacks subject matter jurisdiction unless a panel of the Fifth Circuit allows the successive petition to proceed. After reviewing the pleading, file, record in this case, and Report, the court determines that the findings and conclusions of the magistrate judge are correct, and **accepts** them as those of the court. Accordingly, the court **directs** the clerk of the court to **transfer** the habeas petition in this case to the Fifth Circuit for determination, as it lacks subject matter jurisdiction.*

It is so ordered this 27th day of December, 2016.


Sam A. Lindsay
United States District Judge

* An order transferring a successive application to the court of appeals is not a final order requiring a certificate of appealability. *See United States v. Fulton*, 780 F.3d 683, 688 (5th Cir. 2015).